IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.1314 OF 1984

M/s. Imkemex India Ltd. & Anr ..Plaintiffs
Versus
M/s. Rama Roadlines ..Defendants

Ms S. Dwivedi i/b P.N.Sadarangani for plaintiffs
None for defendants

CORAM : P.V.KAKADE, J.

DATE : 15TH DECEMBER, 2005

P.C.:

1. The suit is filed for recovery of the amount of Rs.1,78,772.000 from the defendants along with interest @ 18% from the date of filing of the suit till realisation and thereafter.

2. At this juncture it may be noted that the defendants did not appear in the suit though were served properly, there is no written statement filed on record. In view of this position no issues are required to be settled and the matter was kept for orders.

3. The plaintiffs have filed the suit against the defendants, who are exercising a Public employment as

common and/or public carriers for the transport of the goods by road service for hire and having their office and office at the address given in the title. The consignment involved in the suit was made over to the defendants on 4.6.1981 for carriage and safe delivery at the destination and accepted by the defendants for the said purpose for consideration. The consignment was of 180 x 59 Killos Carboys containing Hydrogen Peroxide consigned by the plaintiffs no.1 from Bombay to be delivered self at Calcutta under G.S.Note No.RRL-01998 dated 4.6.1981 issued by the defendants. The invoice No.IMK/666/STI dated 8.6.1981 which showed the quantity, quality and validity of the consignment. The said consignment was not delivered at the destination which was informed by the defendants by their letter dated 10th July, 1981, which is produced on record. The Survey of the suit consignment was conducted by M/s. Dhruva & Co. The Surveyors have issued Survey Report dated 12.3.1983. The plaintiffs by their letter dated 13th July 1981 lodged a claim with the defendants as required under Section 10 of the Carriers Act. The defendants neither replied to the said letter nor decline to settle the claim and therefore, the suit is filed to recover the impugned amount.

4. Perused the affidavit of evidence as well as the affidavit of documents in original, which reflects the correct position as enumerated in the affidavit and therefore, there is no doubt whatsoever that the plaintiffs have proved their claim as it has gone unchallenged on record. Moreover, it is also supported by documents on record and therefore, I hold that the suit deserves to be decreed.

5. In view of this position, the suit is decreed as follows :

> "The Suit is decreed with costs.
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> The defendants shall pay amount of Rs.1,78,772.00 to the plaintiffs with interest @ 9% p.a. from the date of filing of the suit till realisation."